CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:		Force	V	Discourt.	☐ U.S.
Alexander Schiavo		Team # 4	201402626	Ø	Abuse		O.L.	☐ Injury
Incident Date(s)		Location of Incident:		P	Precinct:	18	Mo. SOL	EO SOL
Wednesday, 02/12/2014 3:00 PM	[40 West 225th Street			52	8,	/12/2015	8/12/2015
Date/Time CV Reported		CV Reported At: How CV Reported: Do		Date/Time Received at CCRB		RB		
Tue, 02/18/2014 12:05 PM		CCRB Phone Tu		Tue, 02/18/2014 12:05 PM				
Complainant/Victim	Type	Home Addre	ess					
Witness(es) Home Address								
Subject Officer(s)	Shield	TaxID	Command					
1. POM Felix Liberato	08672	950749	052 PCT					
Witness Officer(s)	Shield N	o Tax No	Cmd Name					
1. POM Frank Pacella	27431	919525	052 PCT					
Officer(s)	Allegatio	on			Inve	estiga	ator Recon	nmendation
A.POM Felix Liberato	Off. Language: PO Felix Liberato made remarks to \$87(2)(b) based upon the perceived sexual orientation of \$87(2)(b)							
B.POM Felix Liberato	Discourtesy: PO Felix Liberato spoke discourteously to an individual.							
C.POM Felix Liberato	Abuse: PO Felix Liberato threatened to arrest an individual.							

Case Summary

On February 18, 2014, during a phone statement to the CCRB for case number
ser(2)(b) reported this incident (encl. 3-5). On February 12, 2014, at 40 West
225 th Street in the Bronx, \$87(2)(b) received a summons from PO Felix Liberato of the 52 nd
Precinct. The following allegations resulted:
• Allegation A – Offensive Language: PO Felix Liberato made remarks to §87(2)(b)
based upon the perceived sexual orientation of §87(2)(b)
• Allegation B – Discourtesy: PO Felix Liberato spoke discourteously to §87(2)(b)
• Allegation C – Abuse of Authority: PO Felix Liberato threatened to arrest
§ 87(2)(b)
§ 87(2)(g)
This complaint was initially assigned to Investigator Robert Hart. On June 27, 2014, it was reassigned to Inv. Alex Schiavo following Inv. Hart's resignation from the agency. This complaint was unsuitable for mediation due to a lawsuit. Results of Investigation
<u> </u>
<u>Civilian Statement</u>
Complainant/Victim: \$87(2)(b) • \$87(2)(b) • \$87(2)(c) • is a \$87(2)(c) Hispanic male who is 5'10" tall, weighs 190 pounds, and has black hair and black eyes.
CCRB Statement
On February 18, 2014, \$87(2)(b) provided a phone statement for CCRB #\$87(2)(b)
On February 18, 2014, \$87(2)(b) provided a phone statement for CCRB #\$87(2)(b) at which time he provided a narrative about this incident (encl. 3-5). On March 19, 2014, \$7(2)
On February 18, 2014, \$87(2)(b) provided a phone statement for CCRB #\$87(2)(b)

40 West 225th Street in the Bronx. At the location is a Target store that [807(2)(5)] often goes to pursuant to his job as an unlicensed cab driver. On this day, § 87(2)(b) was at Target to go shopping. Before entering the store, § \$87(2)(b) stopped to speak with \$87(2)(b) a Hispanic female who lives in the area and is friends A marked van pulled up near where \$87(2)(b) and \$87(2)(b) were speaking. sa7(2)(b) ran into the Target upon seeing the vehicle. Unlicensed cab drivers who congregate near Target also ran into the store. §87(2)(b) entered the Target and walked straight to the men's bathroom. exited the bathroom, two officers, later identified as PO Felix Liberato and PO Frank Pacella, were standing in the store. PO Liberato said to \$87(2)(b) "Let me get your ID toots, you're in the wrong bathroom." An unidentified male said to PO Liberato, "What you're doing is sexually harassing the guy." PO Liberto replied, "Shut the fuck up if you don't want to get locked up." § 87(2)(b) told PO Liberato that § 87(2)(b) had done nothing wrong. PO Liberato told her to be quiet. §87(2)(b) and the officers walked out to § 87(2)(b) s vehicle, which was parked across the street, so he could obtain his identification. PO Liberato issued §87(2)(b) a summons for §87(2)(b)

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Witness: § 87(2)(b)	
● § 87(2)(b)	
Phone Statement On February 2, 2015, \$87(2)(b) stated that she was \$87(2)(b) has notified police about cab drivers harassing customers. Officers respond very often to the store for various reasons, and \$87(2)(b) had no independent recollection of the incident. \$87(2)(b) stated that cab drivers often run into the store and use the bathroom when they see police. \$87(2)(b) has never heard an officer tell a cab driver, "Let me get your ID toots, you're in the wrong bathroom."	
Attempts to Contact Civilians On November 10, 2014, and November 19, 2014, the CCRB left voicemail messages at the phone number that \$\frac{\mathbb{S}^{3}(2)(\mathbb{D})}{2}\$ provided for "\$\frac{\mathbb{S}^{3}(2)(\mathbb{D})}{2}\$ To date, she has not contacted the CCRB. Without further information, database searches could not be conducted to obtain additional contact information.	ţ
NYPD Statements:	
 Subject Officer: PO FELIX LIBERATO PO Liberato is a 567(2)(5) -old Hispanic male who is 5'9" tall, weighs 235 pounds, and has black hair and brown eyes. On February 12, 2014, PO Liberato worked from 9:30 a.m. to 6:05 p.m. with PO Pacella. They were dressed in uniform and assigned to a business condition in marked RMP #8668. 	
Memo Book According to PO Liberato's memo book, at 3:00 p.m., he issued 887(2)(b) a 887(2)(b) was observed on a public sidewalk with intent to cause disruption and a gathering. When he was ordered to disperse, he refused by not leaving the premises (encl. 10-12).	
CCRB Statement PO Liberato was interviewed at the CCRB on November 20, 2014 (encl. 13-14). PO Liberato knows \$37(2)(b) because \$37(2)(c) is an illegal cab driver who is often at the Target at 40 West 225th Street in the Bronx. On February 12, 2014, at approximately 2:55 p.m. PO Liberato approached a group of several illegal cab drivers in the store's entryway. He had been there approximately three times earlier in his tour and told them they had to leave. This w the second occasion on which PO Liberato had seen \$37(2)(b) As \$37(2)(b) observed B Liberato, he ran into the store and went into the men's restroom. Illegal cab drivers often do th to feign as if they are patronizing the store. PO Liberato walked into the store and observed \$37(2)(b) walk out of the restroom. He requested \$37(2)(b) sidentification and explained that \$37(2)(b) had refused the earlier order to disperse and he was clearly not shopping. PO Liberato did not say, "Let me get your ID, toots. You're in the wrong bathroom." He never implied that \$37(2)(b) should ha been using the women's bathroom, nor did he make any homophobic remarks. No bystanders spoke to PO Liberato. PO Liberato did not tell a bystander, "Shut the fuck up if you don't want to get locked up." PO Liberato did not use any profanity towards any bystanders or threaten to arrest any bystanders. \$37(2)(b) provided his identification, and PO Liberato wrote him a	'as PC at

Witness Officer: PO FRANK PACELLA

- PO Pacella is a [87(2)(b)] -old white male who is 5'11" tall, weighs 270 pounds, and has brown hair and brown eyes.
- On February 12, 2014, PO Pacella worked with PO Liberato from 9:30 a.m. to 6:05 p.m. They were dressed in uniform and assigned to business conditions in marked RMP #4372.

Memo Book

PO Pacella did not have any memo book entries pertaining to an incident at 40 West 225th Street (encl. 15-16).

CCRB Statement

PO Pacella was interviewed at the CCRB on December 3, 2014 (encl. 17-18). He corroborated PO Liberato's account of the illegal cab driver problem at the location, but he did not recall the details surrounding the incident. PO Pacella denied hearing PO Liberato make any of the alleged remarks.

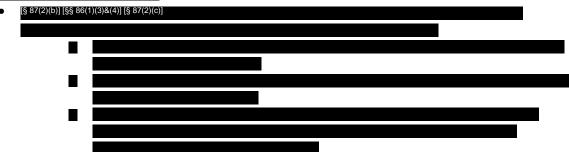
Summons for Incident and Disposition

• A request to the Bronx Criminal Court Summons Part is pending regarding the disposition of the summons that \$87(2)(b) received.

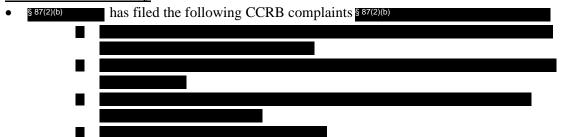
Status of Civil Proceedings

• \$87(2)(b) has not filed a Notice of Claim with the City of New York as of September 12, 2014, with regard to the incident.

Civilian Criminal History



Civilian CCRB History



Subject Officer CCRB History

• PO Liberato has been a member of the service for three years and there are no substantiated

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	Conclusion		
Identification of Subject Officer PO Liberato acknowledge		th § 87(2)(b)	
Investigative Findings and Reco	<u>mmendations</u>		
Allegation A – Offensive Langu- based upon the perceived sexual		o made remarks to §87(2)	(b)
Allegation B – Discourtesy: PO		discourteously to § 87(2)(b)	
Allegation C - Abuse of Author	ity: PO Felix Liberato	threatened to arrest § 8	
in the men's bathroom. When an Liberato allegedly replied, "Shut t all of the alleged conduct, and PO	unidentified bystander the fuck up" and threated Pacella did not recall to roborated PO Liberato	ened to arrest him. PO Land the incident. § 87(2)(b) s testimony about cab dri	statements, PO iberato denied s87(2)(b) ivers' behavior
s 87(2)(g)	n nave an independent	reconection of this partic	urar incident.
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Team:			
Investigator:			
Signature	Print	Date	
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Supervisor:	Print	Date	
-		2410	
Reviewer:	Print	 Date	
Title/Signature	riiiil	Date	
Reviewer:			
Title/Signature	Print	Date	

CCRB allegations against him (encl. 1). §87(2)(b)

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